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Supreme Court of the United States

No. 333

CHARLES COLLE,

Petitioner,

vs.

UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI

O. B. CLINE, JR.
Counsel for Petitioner,

CHARLES COLLE
1518-19 Alfred I. duPont Bldg.
Miami 32, Florida

Supreme Court of the United States

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CHARLES COLLE,

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TO: HONORABLE CHIEF JUSTICE & JUSTICES
Supreme Court of the United States of America

PETITION AND GROUNDS

COMES NOW CHARLES COLLE, by and through his undersigned attorney, and respectfully petitions this Honorable Court to direct the issuance of its Writ of Certiorari directed to the Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, and as grounds for said Petition would respectfully submit:

1. The Trial Court did not give the Defendant a fair and impartial trial as required by the laws of the United States.

2. The Court erred in denying the Appellant's Motion for Judgment of Acquittal at the conclusion of the Government's case in chief.

3. The Court erred in requiring the Defendant to take the stand.

4. The Court erred in permitting an extensive cross-examination of the Defendant over the objection of counsel for the Defendant, which went far beyond the scope of direct examination.

5. The Court erred in its extensive interrogation and cross-examination of the Defendant so as to prejudice the rights of the Defendant to a fair and impartial trial.

SUMMARY OF MATTER INVOLVED

Your Petitioner was indicted with six (6) other persons on the 4th day of June, A. D., 1959, in an Indictment charging conspiracy to violate Title 22, Section 1934(a) and Title 18, Section 201 of the UNITED STATES CODE in violation of Title 18, UNITED STATES CODE, Section 371. The Defendant was tried before the Honorable WILLIAM C. MATHES, United States District Judge for the Southern District of California, sitting by designation at Miami in the Southern District of Florida, on the 29th day of February, 1960, and thereafter. The Court found the Defendant guilty and sentenced him to three (3) years in prison; the Defendant appealed to the United States Court of Appeals for the Fifth Circuit, the conviction was affirmed per curiam by Order dated November 9, 1960; and a Petition for Re-Hearing was thereafter denied per curiam by Order dated July 19, 1961.

JURISDICTION OF THIS COURT

It is respectfully submitted that this Court has jurisdiction of this cause by virtue of Rule 37(c) of the FED-

ERAL RULES OF CRIMINAL PROCEDURE and Title 18, UNITED STATES CODE, Section 3772, in that it is the contention of your Petitioner, Defendant below, that he was not granted a fair and impartial Trial as guaranteed to him by the Sixth Amendment to the CONSTITUTION OF THE UNITED STATES.

QUESTION PRESENTED

Was the Defendant afforded a fair and impartial Trial as guaranteed to him by the Sixth Amendment to the CONSTITUTION OF THE UNITED STATES?

REASONS FOR GRANTING PETITION FOR WRIT OF CERTIORARI

It is respectfully submitted that the Defendant was not afforded a fair and impartial Trial as guaranteed to him by the Sixth Amendment to the CONSTITUTION OF THE UNITED STATES. The Court's attention is directed to pages 247 through 252, inclusive, of the Record in this cause relating to introduction of evidence illegally and improperly seized, as well as the improper coercion by the Trial Court in practically requiring the Defendant to take the stand in direct violation of the CONSTITUTION OF THE UNITED STATES in that the Court said at page 252 of the Record:

> "I want the record to show the Defendant may take the stand now in support of his motion without testifying generally to the case if he wishes to do so. I will hear the motion now, if you want to offer anything in support of the motion; that is, a motion to suppress Exhibits 4

and 5 for Identification, the rifle and so-called machine - - "

It is respectfully submitted that this is a direct violation of the Fifth Amendment to the CONSTITUTION OF THE UNITED STATES.

Attention is also called to the article in ARGOSY Magazine for January 1960, written by Robert Seaver and Leonard Marr, and titled "Miami - - Revolutions C. O. D.". It is well to here note that this article which follows closely the evidence offered at the time of Trial was published some month or two prior to the Defendant's Trial and was so specific that the names of the Customs Agents and other Defendants were given.

CONCLUSION

For the reasons set forth herein it is respectfully urged that your Petitioner, the Defendant below was not afforded a fair and impartial Trial as guaranteed to him by the CONSTITUTION OF THE UNITED STATES; that his constitutional rights and privileges have been grossly violated, resulting in his conviction.

WHEREFORE, your Petitioner respectfully prays this Honorable Court to direct the issuance of its Writ of Certiorari directed to the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

_____

O. B. CLINE, JR.
Counsel for Petitioner

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was this day of August, A.D., 1961, mailed to the SOLICITOR GENERAL, Department of Justice, Washington 25, D.C.

O. B. CLINE, JR.

Statutes involved:

Title 22, USC, §1934(a): Munitions control—Authority of President

(a) The President is authorized to control, in furtherance of world peace and the security and foreign policy of the United States, the export and import of arms, ammunition, and implements of war, including technical data relating thereto, other than by a United States Government agency. The President is authorized to designate those articles which shall be considered as arms, ammunition, and implements of war, including technical data relating thereto, for the purposes of this section.

Title 18, USC, §201: Offer to officer or other person

Whoever promises, offers, or gives any money or thing of value, or makes or tenders any check, order, contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value, to any officer or employee or person acting for or on behalf of the United States, or any department or agency thereof, in any official function, under or by authority of any such department or agency or to any officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or both Houses thereof, with intent to influence his decision or action on any question, matter, cause, or proceeding which may at any time